Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: October 10, 2002

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on October 18, 2002:

1. Z.C. Order No. 963 (Z.C. Case No. 01-36).

Received By

10/10/02
Date

Attachments

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ZONING COMMISSION
District of Columbia
Case 01-36
ZONING COMMISSION
District of Columbia
CASE NO.01-36C
EXHIBIT NO.57
Exhibit 57

ZONING COMMISSION ORDER NO. 963
Case No. 01-36C
(Consolidated Planned Unit Development
for Unified Communications Center)
September 9, 2002

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on April 18, 2002, to consider an application from the District of Columbia Office of the Chief Technology Officer for consolidated review and approval of a Planned Unit Development (PUD), pursuant to Chapters 1 and 24 of the D.C. Zoning Regulations, Title 11, of the District of Columbia Municipal Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On December 21, 2001, the Office of the Chief Technology Officer of the District of Columbia ("OCTO" or the "Applicant") filed an application with the District of Columbia Zoning Commission for the consolidated review and approval of a PUD for the property consisting of Lot 1 in Square S5868 (the "Site"). On January 14, 2002, the Zoning Commission decided to schedule a public hearing to consider the application.

2. OCTO is an agency that develops and enforces policies and standards for information technology in the District of Columbia government; identifies where and how technology can systematically support the District of Columbia's 68 agencies and the public; assesses new and emerging technologies to determine their potential application to District programs and services; and promotes the compatibility of computer, information technology, and communications systems throughout the District of Columbia government. The overall goal of this PUD is to improve the efficiency and effectiveness of these operations by creating a new, centralized, Unified Communications Center ("UCC").

3. After proper notice, the Zoning Commission opened the public hearing on April 18, 2002, and completed the public hearing that evening.

4. The parties to the case were the Applicant, Advisory Neighborhood Commission ("ANC") 8A, within which the Site is located, and ANC 8C, which was qualified as a party at the public hearing.

The Site and the Area

5. The Site consists of the northernmost part of the East Campus of St. Elizabeth's Hospital in Ward 8 and is located along the east side of Martin Luther King Jr. Avenue ("MLK Avenue") near Pomeroy Road, S.E. Suitland Parkway passes near the property to the northeast but does not provide vehicular access to it. The Site is substantially vacant except for four wood frame cottages and associated sheds. The land area of the Site is 513,755 square feet or 11.80 acres. In addition to the few buildings, the Site is predominantly grassland with a few trees, including oak, walnut, cherry, and magnolias. Most of the Site is vacant and has a clear line of sight to the existing communications tower located on the southern end of the East Campus, both key factors in the District's selection of this site for the Unified Communications Center.

6. The surrounding neighborhood includes the St. Elizabeth's Hospital campus itself (both East and West Campuses), federal park and highway land, nearby residential development, and the Barry Farms neighborhood. The predominant surrounding land use context is the St. Elizabeth's campus itself, which abuts the Site for an extended distance to the south and west. The 336-acre campus is developed with gracious institutional buildings, many of them historically designated, together with open spaces and trees.

7. Abutting the Site to the east is Suitland Parkway, a four-lane expressway with federally-owned open space on either side of the highway. To the northeast is a moderate-density residential area on either side of MLK Avenue, developed with a mixed housing pattern including garden and midrise apartments, as well as row, semi-detached and detached dwellings. Farther to the west is the Barry Farms neighborhood of row dwellings and garden apartments. These above residential areas are zoned R-5-A, a low-density apartment zone. MLK Avenue is a major four-lane arterial street providing ample vehicular capacity for access to the proposed UCC building. Numerous bus lines run along this avenue, including some that provide a connection to the Anacostia Metrorail Station located approximately one-half mile to the north.

The PUD Project

8. The Applicant proposes to construct a building and advanced communications equipment in one secure facility to accommodate the critical communications functions of the District of Columbia. The UCC will be a state-of-the-art, three-story, office building (with basement), together with specialized communications equipment, dining area, childcare center, landscaping, surface parking, and historic preservation features. It will comprise 138,000 square feet of gross floor

area, including 127,000 square feet for the UCC and 11,000 square feet for the childcare center. The key functions that will be accommodated in the building are as follows:

g. Police and Fire 911 and 311 (public safety/non-emergency) Call Takers;

h. The Mayor's Call Center (727-1000);

i. The Emergency Management Agency Offices;

j. Traffic Management;

k. Mayor's Emergency Command Center; and

l. Administrative Functions for the above.

9. The UCC will include areas for call taking/dispatch area, dining, a childcare center for approximately 65 children, conference rooms for meetings and the media, administrative offices, and staff training. There will be approximately 139 communications consoles. The building is designed to accommodate functional growth to the year 2015. In summary, the UCC will serve the District's Police Department, Fire Department, Emergency Management and Emergency Preparedness functions, and answer all emergency and nonemergency calls. A total of 278 parking spaces will be provided on site – 235 for employees and 43 for visitors and the childcare center. The building will have a height of 57 feet and a density of 0.28 FAR.

10. The Unified Communications Center is part of the Mayor's Government Centers initiative, which locates government facilities in neighborhoods to bring services close to citizens and to support community revitalization and economic development.

11. In addition to the required operational and spatial requirements of the agency, the District is providing a variety of employee amenities to attract and maintain a high-quality staff. These amenities include a full-service childcare center, a physical fitness/health center, a full-service kitchen and dining facility, close proximity to secure parking spaces for employees, stress mediation area, and facilities specifically designed for its critical function.

12. The Site and the remainder of the St. Elizabeth's Hospital campus are unzoned, having been historically in federal government ownership and use. Since the East Campus was transferred to the District of Columbia in 1989, it has continued to be unzoned because no expansion or change in use has occurred. The UCC project requires zoning, and the application requests C-2-B zoning. Because of its mixed residential-commercial character and moderate to medium permitted scale of development, C-2-B will be compatible both with the remainder of the St.

Elizabeth's campus and the adjacent residential neighborhoods to the northwest, which are zoned R-5-A. C-2-B is a medium-density mixed-use zone that allows a maximum density of 3.5 FAR for residential or mixed uses and a maximum of 1.5 FAR for commercial and non-residential use and development. With a PUD, the maximum density limitation is 4.5 FAR and a maximum of 2.0 FAR for commercial uses. The maximum permitted building height is 65 feet as a matter-of-right and 90 feet with a PUD. The building design is no higher than necessary in view of its special use and the requirement for high, clear spaces and considerable mechanical and electrical volumes above most ceilings. The designers have concluded that the building cannot be made any shorter without making operational compromises that are materially contrary to the mission of the project.

13. The exterior of the building is designed to demonstrate the technological identity of the building's function, while respecting the context of the historic neo-classical buildings on the campus to the south. At the north end of the development, the childcare center will maintain a vernacular design utilizing scale and materials consistent with the historic buildings. The colonnade connecting the rectangular bar building and the childcare center will also follow this theme. Brick masonry is utilized for both buildings. The west face of the bar building will also use brick in the vocabulary of the exterior with the addition of intermittent cast stone elements. A rusticated base course utilizing complementary masonry will form a base for the building. On the east and north elevations of the building, the call center is identified as an independent structure. A simple span barrel vault, standing seam metal roof encompasses the large volume of the column-free call taking space. The materials on the east and north façades are also composed primarily of brick masonry, cast stone, and glass. The radio antennas critical to a communication facility have been designed as an integral part of the building's architecture, providing a harmonic rhythm sympathetic to the rhythm of the building's exterior cladding. Other antennas will also be sited to mimic the architectural lighting standards lighting the parking lot.

14. The building's components are arranged as follows:

    a. Administration is located in a three-story, rectangular structure on the west (MLK Avenue) side of the Site, with a 100-foot setback to provide a security zone;

    b. The Call Center is located directly behind (east of) the rectangular building element, providing the best views of the city for the call takers and providing added security/protection of critical communications functions;

    c. The two-story childcare center is located to the north of the rectangular building and visually connected to it by an open colonnade. Access to the childcare center is from a separate entrance to the property; and

d. The main pedestrian entrances to the UCC, food service, and physical fitness facility are all located on the south side of the building on the first floor. The employee entrance, adjacent to secure parking area, is located on the east side of the building.

15. Because the UCC will function as the visual and physical terminus of the St. Elizabeth campus, the Site is linked to the main campus by the pedestrian and vehicular systems. The layout of the parking lots, as well as the conifer trees and canopy tree lines, will respect and strengthen the formality and the geometry of the entire campus. The line of Pin Oak trees along MLK Avenue will be retained and pruned to maintain a formal edge. Some of the Southern Magnolias will be retained to emphasize the historic nature of the campus setting. The radial shaped parking lot and a series of tree lines follow the existing topography and earth form to minimize earthwork and also to accentuate the curve lines of the center plaza.

16. When the East Campus was transferred from federal to District of Columbia ownership in 1987, the federal and District governments, as well as the Advisory Council on Historic Preservation and the State Historic Preservation Office ("SHPO") signed a Memorandum of Agreement ("MOA"). The MOA requires activities of the District government potentially affecting specified historic resources to be reviewed by the SHPO and the Advisory Council. Four wood frame "cottages" built in the 1880s remain on the Site. They are approximately 500 feet from two large, historic barns – the 1901 "Horse Barn" and the 1884 "Dry Barn" – located on the adjacent part of the East Campus. Although the barns are not situated on the PUD site, OCTO has agreed to assist in their preservation.

17. The Applicant and its consultant team initially met with the Advisory Council on Historic Preservation and the SHPO on December 18, 2001. For several months after that date, numerous meetings and consultations occurred, resulting in an agreement by OCTO to stabilize the Horse Barn and Dry Barn, preserve two of the cottages on the Site, and demolish two of the cottages while recording them in the Historic American Buildings Survey ("HABS"). OCTO has also contributed $500,000 towards the Office of Planning's master plan process for the St. Elizabeth's Hospital campus. The Commission of Fine Arts granted conceptual approval to the design in February 2002.

18. The application offers the following public benefits and amenities and other statements of compliance with the PUD Evaluation Standards set forth in 11 DCMR § 2403:

a. Public Safety and Public Service, including effective security services and communications for the District of Columbia and a location that supports the District's land use, transportation, economic development, and neighborhood improvement objectives, as set forth in Chapter 6 of the *Comprehensive Plan*;

b. Economic Development and Community Revitalization, derived from the Government Centers Program that strategically locates significant District of Columbia facilities in neighborhood areas, and in furtherance of various policies in the Economic Development Element of the *Comprehensive Plan*;

c. Historic Preservation, including actions described in Finding of Fact No. 17 above;

d. No Adverse Impacts on the surrounding area, because the UCC will be a low-density building on a large site isolated from residential development, will have excellent employee access from a major arterial street and two nearby Metrorail stations, and has a compatible and high-quality design as approved by the Commission of Fine Arts;

e. Environmental Benefits, including especially a development plan that will contain and mitigate the presence of inert fly ash that has accumulated on the site by sealing the fly ash under the paved parking area and taking other precautions during construction. The project also includes energy-efficient design principles and a bio-retention area to control storm water runoff; and

f. "Effective and Safe Vehicular and Pedestrian Access" (2403.9(c));

g. The PUD is consistent with or "not inconsistent" with, additional *Comprehensive Plan* policies, as follows:

(1) "Stabilizing and Improving the District's Neighborhoods." (§ 102);

(2) "Respecting and Improving the Physical Character of the District" (§106);

(3) "Preserving the historic character of the District" (§ 108); and

(4) Consistency with the Generalized Land Use Map of the Land Use Element, which designates the subject site for development of "Local Government Facilities."

19. The Applicant submitted evidence of having met with and discussed the proposed PUD with a wide range of community interests and organizations, including all of the Ward 8 Advisory Neighborhood Commissions.

Office of Planning Report

20. By report dated April 3, 2002, and by testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the application with the condition that the historic preservation amenity plan include:

    a. The relocation of two of the cottages on-site;

    b. The recordation of the other two cottages;

    c. The planting of grasses and preservation of many of the existing Buckeye trees; and

    d. The stabilization of the historic Horse and Dry Barns on St. Elizabeth's Hospital property to the south of the Site.

21. OP supported the rezoning from unzoned to C-2-B as part of the PUD application and found that the UCC project will benefit the neighborhood because of an increased public safety presence, economic spinoffs due to the presence of employees on the Site, improved landscaping along MLK Avenue, and clean-up of the Site with the removal of trash and abandoned vehicles. OP also stated that there would be major improvements in city operations and communications due to creation and development of the UCC and that impacts from the UCC's development on the surrounding area will be minimal given the campus setting, provision of ample parking and aligning the entrance driveway with the entrance to the West Campus directly across the street. OP noted the compatibility of scale between the proposed UCC structure and the other campus buildings. Environmental benefits were also cited favorably by OP, including containment of the fly ash on the property, energy-efficient features of the building, storm water run-off controls and pond, and preservation of open space and Buckeye trees. Finally, OP found that the proposed PUD is "not inconsistent" with the *Comprehensive Plan.*

Commission of Fine Arts Recommendation

22. The Commission of Fine Arts ("CFA") reviewed the UCC plans at its meeting of February 21, 2002. The CFA granted preliminary approval, while recommending that additional trees be planted in the parking areas and that the effectiveness of the landscape security features (berm, trees, etc.) is assured.

Report of the Public Safety Agencies

23. The Assistant Chief of Police, Assistant Fire Chief/Emergency Medical Services, and the representative of the Emergency Management Agency testified in support of the UCC project, noting that emergency services of all kinds will be made

much more effective as a result of the communications and administrative improvements that will result from the project.

ANC 8A Report

24. In a letter dated April 9, 2002, ANC 8A requested a postponement of the public hearing on two grounds. First, the ANC requested that a new and independent study of the health effects of the fly ash deposited on the Site in the past be conducted. Second, the ANC expressed concern over the effect of UCC on the continued operation of mental health services on the St. Elizabeth's campus to the south, noting that mental health is the primary function of the campus. At the public hearing, the ANC chair stated that she and the other ANC Commissioners were in full support of the UCC being located on the St. Elizabeth's East Campus, noting that emergency services in the neighborhood might improve. However, the ANC continued to have serious concerns about public health related to the fly ash.

ANC 8C Report

25. By letter dated April 8, 2002, ANC 8C requested a postponement of the public hearing because of concerns about public health due to disturbing the fly ash on the Site. The ANC stated that The George Washington University and Greenpeace conducted studies in the late 1980s of the ash at the request of community persons. ANC 8C expressed the concern that disturbing the fly ash to construct the parking lot for UCC will cause airborne contaminants detrimental to the health of persons living in the surrounding area.

Testimony and Submissions of Persons in Support

26. Ward 8 Council Member Sandra Allen submitted a letter in support of the PUD, as did the Principal of Ballou High School and the Deputy Mayor for Public Safety and Justice. The D.C. Director of Mental Health, Martha B. Knisely, submitted a letter in support, indicating that approval of the UCC will not adversely affect the provision of mental health services on the large St. Elizabeth's Hospital campus to the south of the Site.

27. Eugene Kinlow, a resident of Ward 8, testified as an executive officer of several organizations, including the Washington East Foundation, the Far Southwest Civic Association, the Ward 8 Coalition, the Technology Committee of the University of the District of Columbia, and others. Mr. Kinlow testified in support of the UCC, noting that OCTO has presented the plans to many organizations in the neighborhood and noting that the UCC will be the District government's largest investment in Ward 8 to date. He also supported the economic development effects, training, and contracting opportunities likely to result from construction of UCC in Ward 8. Finally, Mr. Kinlow recommended that all four cottages on the site be preserved.

28. Sharika Johnson of the Telecommunications Development Corporation and Sid Hameed of Computer World Services testified in support of the PUD, noting that the UCC will likely generate telecommunications contracting opportunities for local, small, and disadvantaged businesses.

Contested Issue

29. Testimony by ANC 8A and ANC 8C questioned whether the fly ash that was dumped on the Site from the Benning Road incinerator over a period of years is safe and whether it might be disturbed by construction of the parking lot, resulting in airborne contaminants adversely affecting the health of nearby residents. The ANCs alleged that some neighborhood residents had health problems related to the fly ash and even died as a result of exposure to the ash. The chairpersons of the two ANCs stated at the public hearing that The George Washington University and Greenpeace had conducted a study some years ago in connection with construction of the Metrorail line through the St. Elizabeth's campus that supported the allegation of health problems related to the fly ash.

30. In a submission dated April 15, 2002, the Applicant responded to the ANCs' statements as follows: "In developing the plans for the Unified Communications Center ("UCC"), OCTO and its consultants have obtained expert findings, and they offer a complete program regarding the fly ash, as summarized below:

- In addition to the expert study performed on behalf of WMATA in 1995 (which found the material to be inert and safe), OCTO has a more recent report by the URS Corporation. The latter report tested the fly ash and found it to be non-hazardous and below the U.S. EPA Risk Based Concentration ("RBC") for commercial soil. The URS report was prepared by qualified laboratory technicians in a modern, certified laboratory, using recognized, up-to-date methods. A copy of the URS report was submitted to the record of the case.
- The architects sited the UCC building so as to avoid the area with fly ash deposits, which would be an undesirable foundation and would be significantly disturbed by excavation for building foundation.
- The surface parking area will cover most of the fly ash area and effectively seal it. OCTO believes this is actually a mitigation measure, in that covering the ash with asphalt provides a sealing process, whereas the fly ash is currently compacted and exposed to the elements.
- OCTO is following all applicable laws and regulations in this regard. It has successfully completed the Environmental Screening Process of the Department of

Consumer and Regulatory Affairs, which was quite rigorous. And, in handling the fly ash OCTO will follow applicable federal and local laws and procedures.

- In national as well as local terms, this is far from a unique environmental condition, and the applicable laws and regulations fully control the situation.
- The issue of the fly ash is also addressed on pages 24-25 of the Pre-Hearing Submission, dated and submitted to the record on February 8, 2002."

31. At the public hearing, the Applicant volunteered to attempt to obtain a copy of the Greenpeace report and was able to obtain a copy. It was not submitted into the record. The document reportly advocated closing of the Benning Road incinerator, which was in operation at the time the report was written, and which was subsequently closed. The matter of the Benning Road Incinerator ash deposited at St. Elizabeth's was of secondary coverage in the report. The authors of the Greenpeace report did not commission any tests of the ash deposited on the St. Elizabeth's site, but offered their own interpretation of chemical analyses of the St. Elizabeth's ash apparently performed on behalf of the city by contract laboratories. The authors of the Greenpeace report did not present any qualifications to render a scientific opinion on the ash.

32. In its post-hearing submissions dated May 14 and 28, 2002, the Applicant provided additional plans as well as written facts and analyses of issues as requested by the Zoning Commission. These materials included:

a. Antenna Plan;

b. Updated Traffic and Parking Study;

c. Homeless Trailers PUD Provision;

d. Rendering of Current Design;

e. CFA Approval Letter;

f. Alternate Location for Community Garden;

g. Documentation of Community Outreach;

h. Illustration/Rationale for Building Height;

i. Landscaping Schedule (with additional trees on perimeter along Suitland Parkway);

j. Views from Suitland Parkway;

k. Grading Plan;

l. Reduced Height of Wall – Childcare Center;

m. Illustrations of St. Elizabeth's' Hospital Historic Features in UCC Design;

n. Draft MOU with Community Representatives;

o. Draft of LSDBE MOU;

p. Letter from Mental Health Administration;

q. Specifications and Procedures for Fly Ash;

r. Lighting Plan for Parking Lot;

s. Barrel Vaulted Roof Design – Options, Drawings and Rationale; and

t. Exterior Fence Design and Details.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1 The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Zoning Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, the height and density will not cause a significant adverse effect on any nearby properties, and will, in fact, include less density on the Site than is permitted as a matter-of-right. The office and communications use for this project is appropriate on this Site, which is well served by a major arterial street, bus lines, and nearby mass transit stations. The impact of the project on the surrounding area will not be adverse and will, in fact, be beneficial.

6. The Application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities, particularly the contribution to efficient and effective communications services to the District of Columbia and the historic preservation benefits, are a reasonable trade-off for the minor development flexibility requested. The use, height, bulk, and design are appropriate for the Site and the setting.

8. Approval of this PUD and change of zoning is not inconsistent with the *Comprehensive Plan*, including the designation of the Site for use and development of "Local Government Facilities" in the Generalized Land Use Map of the Land Use Element.

9. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's concerns regarding the potential health hazards related to the fly ash on the Site. The Commission has reviewed the expert submissions of the Applicant, together with Applicant's program for containing the fly ash during construction and permanently and concurs with the Applicant's expert findings and mitigation program. The Commission has addressed, through the conditions imposed in this order, the ANC's specific issues and concerns.

10. The approval of the Application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

11. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the applications for consolidated review of a Planned Unit Development and for a PUD-related Zoning Map amendment from unzoned to C-2-B for property located at the

northern end of the East Campus of St. Elizabeth's Hospital, on the east side of Martin Luther King Jr. Avenue in Square S5868, Lot 1. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by Daniel, Mann, Johnson & Mendenhall (DMJM), Architects, dated December 21, 2002, as supplemented by drawings dated May 14, 2002, marked as Exhibits 2 and 42, respectively, in the record, as modified by the guidelines, conditions, and standards herein.

2. The PUD shall be the District of Columbia central communications facility and associated office building, with a childcare center, food service, and other ancillary facilities, consisting of approximately 138,000 square feet of gross floor area, including 11,000 square feet in the childcare center. The PUD project shall not exceed a density of 0.29 FAR. The building shall not exceed a height of 57 feet.

3. The approved antenna plan is Option A as set forth in the Applicant's plans provided in the Supplemental Submission dated June 25, 2002.

4. The exterior design features shall be as finally approved by the Commission of Fine Arts.

5. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and as approved by the Department of Public Works (Public Space Division). Landscaping and reforestation for the purpose of visually screening the building from persons traveling on Suitland Parkway shall be in accordance with the plans provided on pages eight and nine of the Applicant's Supplemental Submission dated June 25, 2002. Screening landscaping adjacent to the PUD boundary within the right-of-way of the Suitland Parkway shall be fenced with a snow fence to protect the area as it re-vegetates. The Applicant shall also plant at least 12 trees in the median strip of Suitland Parkway in a location that will help visually screen the UCC building from inbound travelers on the parkway.

6. There shall be 278 parking spaces and six (6) loading berths, as shown on the plans submitted to the record.

7. The historic preservation amenity package for this PUD consists of the items set forth below. The Commission also acknowledges as a public benefit that the Applicant will be required to comply with the "Proposed Historic Mitigation Program" under the terms of the MOA that transferred the East Campus to the District of Columbia and associated review and approvals by the State Historic Preservation Office and the federal Section 106 historic preservation review. For the purposes of this PUD, the historic preservation amenity package is as follows:

a. The financial contribution of $500,000 previously made by the Applicant to the Office of Planning to help fund the forthcoming framework plan for the historic St. Elizabeth's Hospital campus; and

b. An additional financial contribution of $1.2 million to be made to a historic preservation mitigation fund. This fund will be used to stabilize the Dry Barn (Building #82) and Horse Barn (Building #83) and to relocate and renovate the cottage(s). The $1.2 million will be allocated and spent in accordance with the design and in order of priority approved by the D.C. State Historic Preservation Officer.

8. The Applicant shall assist in the relocation of the existing community garden to another location on the St. Elizabeth's Hospital campus.

9. The Applicant shall have flexibility with the design of the PUD in the following areas:

a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;

b. To vary the number and location of parking spaces, from a minimum of 260 spaces to a maximum of 290 spaces;

c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;

d. To make architectural changes initiated and required by the Commission of Fine Arts to be consistent with the final approval of the Commission of Fine Arts, with the exception of any changes in the physical location of the building on the lot; and

e. To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.

10. The trailers that are currently located on the northern part of the site and used by the City and Catholic Charities as homeless shelters are an existing condition and an interim use. At such time as this use is discontinued, the subject land area will be maintained as open space for the UCC.

11. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by

local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

12. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.

13. The Applicant shall abide by the terms of the memorandum of understanding with Advisory Neighborhood Commissions 8A and 8C regarding the establishment of employment opportunities and the handling of the fly ash.

14. No building permit shall be issued for this PUD and the PUD-related map amendment shall not take effect until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

15. The Office of Zoning shall not release the record of this case to the Zoning Division of the DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

16. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin on the building within three (3) years of the effective date of this order.

17. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.

Vote of the Zoning Commission taken at its public meeting on July 8, 2002, to **APPROVE** the proposed rulemaking: **5-0-0** (Carol J. Mitten, James H. Hannaham,

Anthony J. Hood, and Peter G. May to approve; John G. Parsons to approve by absentee ballot).

This order was **ADOPTED** by the Zoning Commission at its public meeting on September 9, 2002, by a vote of **5-0-0** (Carol J. Mitten, James H. Hannaham, Anthony J. Hood, John G. Parsons, and Peter G. May to adopt).

NOTICE OF NON-DISCRIMINATION

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE SECTION 2-1401.01 *ET SEQ.*, (ACT), THE DISTRICT OF COLUMBIA DOS NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTIONS.